

HJ
3647
A6
1895

A
A
0
0
0
0
5
6
2
3
8
0
6



UC SOUTHERN REGIONAL LIBRARY FACILITY

CAPE OF GOOD HOPE
PARLIAMENT
LEGISLATIVE COUNCIL
SELECT COMMITTEE ON
RATES ON DUTCH REFORMED
CHURCH PASTURE LANDS
REPORT



THE LIBRARY
OF
THE UNIVERSITY
OF CALIFORNIA
LOS ANGELES

GIFT OF
THE ARCHIVES DEPARTMENT,
UNION OF SOUTH AFRICA.

UNIVERSITY OF CALIFORNIA
LOS ANGELES

CAPE OF GOOD HOPE.

JUN 6 1961

LIBRARY
GOVT. PUBS. ROOM

REPORT

OF THE

SELECT COMMITTEE

ON

RATES

ON

DUTCH REFORMED CHURCH PASTURE LANDS.

Printed by Order of the Legislative Council.

18TH JUNE, 1895.

CAPE TOWN:

W. A. RICHARDS & SONS, GOVERNMENT PRINTERS.

1895.

C. 4.—'95. D. R. CHURCH PASTURE LANDS.



CAPE OF GOOD HOPE.

REPORT

OF THE

SELECT COMMITTEE

ON

RATES

ON

DUTCH REFORMED CHURCH
PASTURE LANDS.

Printed by Order of the Legislative Council.

18TH JUNE, 1895.

CAPE TOWN:

W. A. RICHARDS & SONS, GOVERNMENT PRINTERS.

1895.

C. 4.—'95. D. R. CHURCH PASTURE LANDS.



Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

11.5
2647
R.L.
1895

CONTENTS.

Orders of Committee	...	...	...	v
Report	...	...	...	vii
Proceedings of Committee	...	...	...	ix

Evidence :—

Mr. N. F. de Waal	...	...	1
The Hon. Mr. Herholdt, M.L.C.	...	...	6
Mr. J. Joubert, M.L.A.	...	...	10

Appendix :—

A.—Petition from the Consistory of the D. R. Church of Middelburg, pre- sented to the Council	...	...	i
B.—Petition of G. van Niekerk, V.D.M., Minister and Chairman of the D. R Church Consistory of Middelburg, ad- dressed to the Committee, with refer- ence to the subject under enquiry	...	...	ii

DSW

ORDERS APPOINTING THE COMMITTEE, &c.

14th May, 1895.

Ordered,—That the Petition of the Churchwardens of the Consistory of Middelburg, with reference to the payment of Divisional Council Rates on Pasture Lands, presented to the Council on the 10th instant, be referred to a Select Committee, with power to take Evidence and call for Papers; the Committee to consist of the ATTORNEY-GENERAL, MESSRS. WILMOT, HERHOLDT, VAN RHYN, VAN DEN HEEVER, and BOTHA (Mover).

28th May, 1895.

Ordered,—That all Petitions received this Session with reference to the Divisional Rates on Pasture Lands belonging to the Dutch Reformed Church be referred to the Committee on the subject.

REPORT

OF THE

SELECT COMMITTEE on the Petition of the Consistory of the Dutch Reformed Church of Middelburg and other places with reference to the payment of Divisional Council Rates on Pasture Lands belonging to the said Churches, appointed by orders of the Legislative Council, dated 14th and 28th May, 1895; the Committee consisting of the ATTORNEY-GENERAL and Messrs. WILMOT, HERHOLDT, VAN RHYN, VAN DEN HEEVER, and BOTHA (Mover).

Your Committee having considered the Petitions referred to them and having taken evidence thereon,—

Find that the Consistories of the Dutch Reformed Churches of Middelburg, Murraysburg, Alexandria, Dordrecht, Lady Grey and other places either pay or are liable to pay Road Rates levied by Divisional Councils on certain Lands set aside by the said Consistories at the time of the sale of the said Erven as Commonage for grazing purposes for the use of the purchasers or owners of Erven in the said Villages, and that the sole control of these Commonages has been handed over to the Municipalities of the respective Villages abovenamed.

Considering that these Commonages are used by the general public of these Villages for grazing and other purposes your Committee think it only fair and just that the Consistories should be relieved of the payment of Divisional Council Rates thereon so long as they remain under the sole control of such Municipalities.

And they, therefore, recommend that the 243rd Section of the Act No. 40 of 1889 be so amended that such Commonage Lands under the control of Municipalities as above mentioned and belonging to the various Churches should be exempted from valuation and assessment by Divisional Councils for Road Rate purposes in the same way as lands vested in any Municipality or Municipal Council are at present exempted.

R. P. BOTHA,
Chairman.

Legislative Council,
Committee Rooms,
17th June, 1895.

PROCEEDINGS OF COMMITTEE.

Monday, 10th June, 1895.

PRESENT :

Mr. Botha,
,, Wilmot,

Mr. Van Rhyu,
,, Herholdt.

Order of Council of the 14th May, 1895, appointing the Committee read, and also Order of Council of the 28th May, 1895, referring all the Petitions on the subject under inquiry read.

Resolved,—That Mr. Botha be Chairman of this Committee.

The Clerk read the Petition from the Consistory of the Dutch Reformed Church of Middelburg [Appendix A], and laid on the table similar Petitions from the Consistories of Alexandria, Lady Grey, Burghersdorp, Dordrecht and Petrusville.

The Chairman handed in a Petition addressed to the Committee by G. van Nickerk, V.D.M., Minister and Chairman of the Dutch Reformed Church at Middleburg, with reference to the matter under inquiry [Appendix B].

Committee in deliberation.

Resolved,—To examine Mr. N. F. de Waal.

Mr. De Waal examined.

Adjourned until the 12th instant, at 10.30 a.m.

Wednesday, 12th June, 1895.

PRESENT :

Mr. BOTHA (Chairman),

Mr. Wilmot,
,, Herholdt,
,, Van den Heever,

Mr. Van Rhyu,
Hon. Attorney-General.

Hon. Mr. Herholdt, M.L.C., examined.

Resolved,—That the Chairman, Mr. Wilmot and Mr. Van Rhyu be appointed a Committee to draft the Report.

Adjourned until Monday, the 17th instant, at ten o'clock.

Monday, 17th June, 1895.

PRESENT :

Mr. BOTHA (Chairman).

The Attorney-General,	|	Mr. Wilmot,
Mr. Van den Heever,	|	„ Herholdt.
„ Van Rhyn,	|	

Mr. Joubert, M.L.A., examined.

The Chairman submitted the following Draft Report framed by the Sub-Committee :—

Your Committee having considered the Petitions referred to them and having taken evidence thereon,—

Find that the Consistories of the Dutch Reformed Churches of Middelburg, Murraysburg, Alexandria, Dordrecht, Lady Grey and other places either pay or are liable to pay Road Rates levied by Divisional Councils on certain lands set aside by the said Consistories at the time of the sale of the said Erven as Commonage for grazing purposes for the use of the purchasers or owners of Erven in the said Villages, and that the sole control of these Commonages has been handed over to the Municipalities of the respective Villages abovenamed.

Considering that these Commonages are used by the general public of these Villages for grazing and other purposes your Committee think it only fair and just that the Consistories should be relieved of the payment of Divisional Council Rates thereon so long as they remain under the sole control of such Municipalities.

And they therefore recommend that the 243rd Section of the Act No. 40 of 1889 be so amended that such Commonage Lands under the control of Municipalities as above mentioned and belonging to the various Churches should be exempted from valuation and assessment by Divisional Councils for Road Rate purposes in the same way as lands vested in any Municipality or Municipal Council are at present exempted.

Committee in deliberation.

During deliberation,

The Attorney-General moved that the following be the Report of the Committee:—

In the opinion of this Committee the Law does not require amendment in the direction of exempting from the payment of Divisional Council Rates the remaining extent of Church properties from which Erven have been cut off which have grazing rights over such remaining extents, but considers that, as the right of ownership is in such cases retained by the Church with the power to sell further Erven, the existing Law provides for a reasonable appraisal or valuation of such remaining extents or Commonages, proper deduction being made in recognition of the reduced value of the remaining extents or Commonages by reason of the existence of such grazing rights.

After deliberation,

The Report proposed by the Attorney-General was put and the Committee divided.

CONTENTS 2.

The Attorney-General,
Mr. Wilmot.

NON-CONTENTS 3.

Mr. Herholdt,
,, Van den Heever,
,, Van Rhyn.

The Report proposed by the Attorney-General was therefore negatived.

The Draft Report submitted by the Chairman was then put and agreed to, and the Chairman was instructed to report accordingly.

The Committee adjourned.

MINUTES OF EVIDENCE.

SELECT COMMITTEE of the LEGISLATIVE COUNCIL to take Evidence and call for Papers with respect to the Petition of the Churchwardens of the Consistory of the Dutch Reformed Church, Middelburg, with reference to the payment of Divisional Council Rates on Pasture Lands.

Monday, 10th June, 1895.

PRESENT :

Mr. BOTHA (Chairman),

Mr. Herholdt,
,, Wilmot,

| Mr. Van Rhyn.

Mr. Nicholas Frederick de Waal examined.

1. *Chairman.*] How long have you been domiciled at Middelburg?—I have been 14 years at Middelburg. Mr.
N. F. de Waal.

2. Carrying on business there?—Yes, as a law agent, and an auctioneer. June 10, 1895.

3. I suppose you are well acquainted with the subject of the Church lands at Middelburg?—Yes, I am agent for the Dutch Reformed Church, and Secretary to the Divisional Council.

4. I believe you have seen the petition from the Churchwardens of Middelburg?—Yes.

5. And that of Mr. Van Niekerk?—Yes, I drew that petition for him.

6. Can you subscribe to the allegations contained in it as correct?—Oh yes, quite.

7. Do you think it fair that the Church at Middelburg should pay road rates on the present commonage?—No. I think the intention of the Legislature was to exempt

Mr.
N. F. de Waal.
—
June 10, 1895

common lands that were not leased under the Act of 1889, but the section is so worded that it included these commonages.

8. Does the Church at Middelburg as a religious body derive any benefit from the commonage land?—No direct benefit. They have given it to the Municipality to be used as common lands for the public, but they have a certain reservatory right, under which they can get possession of and sell erven. Of course, the moment they get it it would be liable for Divisional Council rates.

9. The erf-holders have a right to use the commonage, and the Church could not prevent them or charge them anything for it?—That is so.

10. *Mr. Van Rhyn.*] Is it laid out as a commonage?—The commonage surrounds the village.

11. Have the people to pay for commonage?—No, nothing.

12. I thought they paid rates on the lands or quitrents?—No: the Church pays the Divisional Council rates upon the commonage.

13. *Chairman.*] It pays the road rates?—Yes.

14. *Mr. Van Rhyn.*] What is the extent of the commonage?—About 2,000 morgen, if not more. I should rather say it was near 3,000 morgen, because the farm originally was 4,000 morgen.

15. *Mr. Wilmot.*] Was this given over by the Church?—Yes. The whole farm originally belonged to the Church, the Church sold a certain number of erven which formed the village, and when the Municipality was formed, the remainder of the farm was handed over by the Church to be used as a commonage. If it belonged to the Municipality there would be no taxes, but as it belongs to the Church there are taxes.

16. What advantage is the possession of it to the Church?—They can sell portions of it for erven at any time.

17. Would it not be a better plan to sell it altogether and thus get rid of the difficulty?—They can't get a buyer.

18. Can't they get the Municipality?—No, the Municipality would not incur such a debt. Besides they will be

able to get a good price, if the village extends, by sale of the erven. Mr.
N. F. de Waul.

19. How can you reconcile their having all the great advantages of future sale with not paying the taxes now?—How should they pay the taxes now: They are not using it, and not getting any revenue from it. June 10, 1895.

20. They have a future great advantage. They own it, and they have a great possible advantage in the future as owners. Why, having that advantage as owners, should they not pay the taxes?—They are owners in a certain way. The public use it free of charge. The Church could very easily get out of it by saying to the Municipality, "In future pay us a rate of interest."

21. Why don't they say so?—They don't want to say it.

22. Don't you think it would be better to do that than have an Act of Parliament?—I don't think so, because the spirit of the Act of Parliament passed in 1889 exempts common lands used by the public.

23. Is there not a difference in the fact that this can eventually be sold?—Only a small proportion of it can be sold.

24. How much can they sell of it?—They can only sell very little because they have given certain grazing rights to purchasers. The Municipality took over all the management of these grazing rights. Although the Church may sell some erven close to the village because they have more than ever will be required for a commonage, still there will always be a commonage, and free grazing ground.

25. There is no effort to exclude them from paying on that if they sell?—The moment they sell it as erven that moment it is liable to taxation.

26. Have they not better sell it?—Yes, if they could find a purchaser.

27. Is not that a better course than an Act of Parliament?—There would be the difficulty of obtaining a purchaser, but as I have said the spirit of the Act of 1889 exempts them from taxes.

28. Don't you think the Act of 1889 means grazing grounds used by the public, which are owned by the public and not by private people?—I don't agree with

Mr.
N. F. de Waal.
—
June 10, 1895.

you there. I think it means grazing ground for which no rent is paid. In cases where rent is paid the person who gets the rent should pay the taxes to the Divisional Council. We say that as the Church receives no rent it should not be taxed.

29. The Church has a future gain to obtain from a sale?—Quite so, but why should it be taxed now?

30. Why should any man be taxed. If you divest yourself of your property you will not be taxed?—The position is this. The party who should bear the tax is the party who has the use of it. We give it free to the public, and we should not be taxed. The moment we sell any portion of it we pay taxes on that.

31. But the Church when selling land with grazing rights at present to people, will get additional value out of the land sold because of those grazing rights?—Quite so.

32. Because there are grazing rights?—I quite agree with you.

33. In the case of these erven that were sold were they divested of them in perpetuity?—Yes.

34. But there are some exceptions, some property may be sold?—Yes, that is all. Otherwise we have nothing to do with them.

35. There are two sections of ground, one in perpetuity as grazing ground, and another that may be sold?—Yes, but that would not amount to more than the one-fiftieth or one-sixtieth part.

36. But there is a portion?—Yes, a small portion. The Church originally owned the whole farm. They put up by auction certain plots of ground; these were sold with certain rights on the whole commonage. The Church sold these and gave transfer and then gave the grazing rights to the Municipality, consequently the Church is divested of its rights with only one reservation, and that is the right to sell additional erven.

37. But that spoils the whole thing?—They gave the public the whole of this grazing ground to which the public has a right, say about 99 per cent., absolutely. One per cent. only remains, and the moment the Church wants that hundredth part again then it is liable to Divi-

sional Council taxation. We say that the grazing ground belonging to the public who have it for nothing is, in the spirit of the Act of 1889, exempt from taxation. It was only intended to put taxes upon the persons who rent grazing ground.

Mr.
N. F. de Waal.
—
June 10, 1895.

38. Don't you think the logical solution is this: For the Church to give over all right, title, and interest in the grazing lands to the people through the Municipality, and then pay Divisional Council taxes upon that small portion of land which they may eventually sell?—We are speaking now only of the small portion, but the Church has also granted that, until it wants it, free of charge to the public. During the period it is so used, there should be no taxation under the spirit of the Act of 1889.

39. That is perfectly clear?—That is my position.

40. *Mr. Herholdt.*] And if you sold any erven?—It would be taxed at once.

41. Can you sell with grazing rights?—We give them grazing rights. The moment the Church calls in a Surveyor and cuts off an erf and puts it up for sale, even if it does not sell it, from that moment it pays Divisional Council rates on that cut off erf.

42. *Mr. Wilmot.*] What is the annual amount paid?—Between £6 and £10 on the grazing ground.

43. That is the whole affair?—Yes; it has been paid for the last 20 years.

44. *Mr. Van Rhyn.*] Do you pay the Divisional Council and the Municipality, or only the Divisional Council?—We pay the Divisional Council. The grazing ground is outside the Municipality.

45. *Chairman.*] You have no right to sell any grazing ground; you can only sell erven?—That is all.

46. And that erf has the same right on the grazing land as the original owner?—Quite so.

Wednesday, 12th June, 1895.

PRESENT :

Mr. BOWEN (Chairman),

Hon. Attorney-General,
Mr. Van Ryn,
Mr. Herholdt,

Mr. Wilmot,
Mr. Van den Heever.

Hon. Mr. Herholdt, M.L.C., examined.

Hon. Mr. Herholdt, M.L.C. 47. *Chairman.*] I believe you are acquainted with the laying out of the village of Murraysburg?—Yes.

June 12, 1895. 48. Will you be good enough to tell the Committee what you know about it?—In the year 1854, I think, a committee was formed by certain gentlemen belonging to the Dutch Reformed Church, and they bought the farm “Eenzaamheid.” They gave £5,000 for it, and then they subsequently sold erven under certain conditions. They sold 140 water erven, and I think an equal number of dry erven. Each of these erven had a grazing right.

49. Had they grazing and water rights?—Yes. This place, with the erven, remained under the control of the Consistory of the Dutch Reformed Church till a Municipality was established, and by mutual consent the churchwardens handed over the control of the whole of the place, together with the management of all the commonage to the Municipality. In making the assessments for Divisional Council purposes, when that body was established, there was no assessment made at any time of the town commonage, but we found out afterwards that by the 243rd section of the Divisional Councils Consolidation Act that there was an opinion that there was a liability for the assessment of road rates. Our Divisional Council, however, has never levied any rates because we were all of opinion that no rates were payable on the commonage. We considered that virtually the commonage belonged no more to the churchwardens, but to the inhabitants and the erf-holders.

50. *Mr. Wilmot.*] Then you have a large bill to pay, will you not if you have not paid rates for 40 years?—We are not 40 years old yet.

51. *Chairman.*] Has the Consistory of Murraysburg a right to lease grazing rights to anybody? No: that is a matter in dispute. At one time I remember they intended to sell some erven, and they did sell two small plots of ground, but without any grazing rights. Subsequently a survey was made of a number of erven, but these were not sold; they are leased, but without any grazing rights.

Hon.
Mr. Herholdt,
M.L.C.
—
June 12, 1895.

52. *Attorney-General.*] Have you a copy of the conditions under which the erven are held?—Unfortunately I have not.

53. I suppose the Church has power to sell erven from the commonage, has it not?—In handing over the commonage to the Municipality there was an agreement between them and the churchwardens that at any time when there was a necessity for alienating any part of the commonage it should be done by mutual consent.

54. Would the Church receive the proceeds from the sale of any erven?—Yes.

55. The Municipality would not receive the proceeds of any erven that might be sold, would they?—No.

56. What date was the Municipality established?—In 1862, I think, sometime in 1862.

57. Is it under the Scanlen Act or under the old Ordinance?—Under the old Ordinance, but we came under the Scanlen Act afterwards.

58. Are you now under the Scanlen Act?—Yes.

59. *Mr. Wilmot.*] How many members of the Divisional Council are there in Murraysburg?—Six.

60. Do they all belong to the Dutch Reformed Church?—Yes, everyone.

61. Do any belong to the Consistory of the Dutch Reformed Church?—No, not one.

62. You have already said that you never paid any taxes?—No such thing has been known.

63. Seeing that in Middelburg they have always paid taxes, do you not think that according to the same law you ought to have paid taxes in Murraysburg?—That is just where our Divisional Council differs. We do not think that it was the intention of the law at all.

64. Has the Auditor-General never queried your not paying taxes?—No.

Hon.
Mr. Herholdt,
M.L.C.

—
12 1895.

65. Do not you think he will now?—No. There is no such place as the farm “Eenzaamheid” known in our list of properties to be valued.

66. The Auditor-General has not the power to compel you to collect rates, but he audits what you do collect, and he can query any breach of the law in that direction, can he not?—I might explain that we were always under the impression, and we still hold the view that although the churchwardens held a servitude in connection with the sale of the commonage, they are really not owners of the ground. That is the opinion we hold.

67. *Attorney-General.*] But is that a correct opinion, in view of the fact that you might sell erven and put the money in your pocket?—That is a legal point.

68. *Mr. Wilmot.*] Did you ever take legal opinion on this point, as a body?—Legal opinion was taken once as to the sale of erven.

69. But not as regards your liability to pay rates, was it?—No.

70. Do not you think the best solution would rather be to divest yourselves of the property as the Attorney-General has pointed out, by a fair arrangement, than try to get exemption when you are not entitled to it?—I think it is a matter for the Legislature to deal with; we hold that we are really the proprietors of the ground.

71. Do not you think the law is based on justice in this case and generally?—I think it would certainly be very unjust now if road rates had to be paid.

72. That is a matter of opinion; the law is against you, is it not?—We want the law altered.

73. *Chairman.*] Are you not of opinion that the commonage is indirectly paying road rates by means of the erf holders paying rates?—They are paying three times as much road rates as any other farm.

74. *Attorney-General.*] They are paying a certain share, are they not?—Treble what the other farmers do.

75. *Chairman.*] That is the view your churchwardens take of it, that they are paying road rates?—Yes.

76. By means of the erven sold?—In valuing the piece of ground surveyed and sold as erven you include the grazing rights of the commonage, and if the commonage

were to be sold to-morrow with such servitude, it would not be worth anything to anybody.

77. *Attorney-General.*] Why not transfer it to the Municipality?—The question is one which is really based more on sentiment than anything else. For my own part, if I were one of the churchwardens, I would say do so, but there is a tremendous feeling against it. As you are aware, it is a very difficult thing to get over sentiment.

78. *Mr. Wilmot.*] So far as Murraysburg is concerned, what is it that you want?—I am only giving evidence because it is an analogous case to Middelburg. That is the view we take of it, we think it is an injustice to make them pay.

79. If it is an injustice to make them pay, why do not you pay the taxes?—Simply because we think it would be an injustice. In the first place, the Divisional Council think it is an unjust claim, and in the second place they have never had the property assessed.

80. *Mr. Van der Heever.*] Are the proprietors of the erven liable to pay certain rates to the Church as well as to the Municipality, and do they also pay road rates on the value of their right to the commonage.—Yes; they do pay indirectly; they pay on the higher valuation of the erven because they have got the right of grazing on the commonage.

81. *Attorney-General.*] It would be quite possible to value the commonage on the basis that it was free from the grazing, would it not; an appraisalment could be made of the commonage on the hypothesis that there were no grazing rights?—You could do so, but if I were an appraiser and knew I had to appraise the property for, say the purpose of raising a loan, I should have to admit that there were certain disabilities on it, certain servitudes, and I must certainly take that into consideration.

82. I mean, you could value it hypothetically as though there were not these burdens on it; that is to say, were it not for these burdens, it would be worth so and so?—Yes.

83. And with the burdens you would value it at so much?—Yes. Without the burdens on it I would value the property at perhaps £5,000, but with the burdens I

Hon.
Mr. Herholdt,
M.L.C.

June 12, 1895.

Hon.
Mr. Herholdt,
M.L.C.
—
June 12, 1895.

consider that it would be worth nothing at all; all the people there having vested rights.

84. *Chairman.*] It only becomes of value the moment you sell these erven; is that it?—Yes.

85. *Attorney-General.*] Have you sold any since the Municipality was established?—Yes, two small patches of ground, I think 40 by 50 feet.

86. And have other erven been surveyed for the purpose of sale?—Yes; the erven that have been surveyed are all valued and they pay rates on them.

87. Who pays the rates?—The Church pays them, pending the sale.

88. Are they leased out?—Yes.

89. What rent do they pay for those erven that are leased out?—Very little; and it varies.

90. About what price do these erven fetch at sale?—Water erven would fetch about from £50 to £75, and the Church has a right to proceed to sell these erven?—Yes, and they are valued.

91. *Mr. Wilmot.*] Would it be a very small tax?—Yes.

Monday, 17th June, 1895.

PRESENT:

Mr. BOTHA (Chairman),

Mr. Wilmot,
„ Van den Heever,

Mr. Van Rhyu,
„ Herholdt.

Mr. Joubert, M.L.A., examined.

Mr.
Joubert,
M.L.A.
—
June 17, 1895.

92. *Chairman.*] Can you tell the Committee when Burghersdorp was laid out as a village, under what conditions and in what way. Was a farm bought on behalf of the Church?—Yes. There was a committee formed who bought the property and they had it laid out. That committee was afterwards chosen as the churchwardens.

The vested rights in the property have remained in the same body up to the present time, although the name was changed. It was at first the Orange River Committee, but afterwards the rights were transferred and they were vested in the churchwardens. Later on, about three or four years ago, the Committee, through the chairman, the Minister of the Dutch Reformed Church, applied that the rights they held should be vested in the churchwardens, and this was granted, so that at the present time it rests with the whole of the churchwardens, as the Orange River Committee.

Mr.
Joubert,
M.L.A.
—
June 17, 1895.

93. What year was the village laid out?—I really cannot say. It was a very long time ago. I was quite a boy at the time. I think it was in 1852, if I remember right.

94. Was it as far back as 1850?—It may have been, but I think it was about 1852.

95. What did they pay for the farm?—I cannot say.

96. What is the extent of the original farm?—Somewhere about 3,000 morgen, more or less.

97. Can you tell us what is the rated value of the erven?—I cannot say.

98. Can you say what is the rated value of the commonage for which they pay road rates?—No.

99. How long is it since they have paid road rates?—It is only about two or three years now that we have been paying road rates, not before. It was always considered formerly by the Divisional Councils that according to the Act of 1840 they had no right to levy rates on the property because Church property was exempt; but then the commonage was not strictly exempted, so that afterwards when the Divisional Council found out that they had a right to levy rates, they commenced to do so on the property. This is not the only instance; there are more.

100. Have the erf-holders grazing rights on the commonage?—Yes.

101. What revenue does the Church derive from the commonage?—They derive no revenue.

102. Is it only left for the benefit of the erf-holders?—Yes: solely for the benefit of the erf-holders. The erven on which there are houses are benefited to that extent.

Mr.
Joubert,
M. L. A.

—
June 17, 1895.

103. Is there free outspan over the commonage for travellers?—Yes.

104. And free grazing?—Yes.

105. Nothing is charged?—No. There are one or two places for outspan purposes but the grazing is free.

106. *Mr. Wilmot.*] Do they not charge for outspanning?—No. They used to at one time, but at present it is free.

107. *Chairman*] Who charged?—The Orange River Committee.

108. *Mr. Wilmot.*] That is the Church, is it not?—Yes.

109. You do not know whether they charge now or not?—I should say not. The petition sent in says that they receive no benefit.

110. Do you live at Burghersdorp?—No. I live in the district; and I know that the farmers of the district do not pay.

111. *Chairman.*] Do you think it likely they would make a distinction?—There was a distinction formerly when it was under the Orange River Committee, and I sat.

112. You say that transport riders paid?—Yes.

113. But not the farmers of the district?—No.

114. *Mr. Wilmot.*] What is the amount annually paid in rates by the Church at Burghersdorp?—I cannot say.

115. Is it a large or small amount?—I cannot say.

116. Has the Church the right of selling erven out of the commonage?—Not outside of that portion which has been surveyed. They do sell erven within the limits of the township, which was surveyed and which falls under the Municipality. They have a right to do that.

117. *Mr. Van Rhyn.*] What is the extent of your commonage?—About 3,000 morgen.

118. And on that commonage the village was laid out?—Yes.

119. As far as the boundary of the village you can sell erven, but not beyond the boundary?—No.

120. Not on the commonage?—No, the other portion of the commonage is considered the erf-holders. They have grazing rights, and they cannot part with any portion of that.

121. So far as the other erven are concerned, are they sold already?—Not all.

122. But you have the right to sell those?—Yes.

123. *Mr. Wilmot.*] Do not you pay Divisional Council, rates on the whole estate, including the property to be sold as erven?—The Municipality used to pay formerly, but now they charge double, on the Municipality and on the Church both. They have to pay to the Municipality and to the Divisional Council.

124. *Mr. Van Rhyn.*] On the erven?—Yes, they have to pay Divisional Council rates on the erven and they have to pay for the Municipality.

125. They have to pay a double tax?—Yes.

Mr.
Joubert,
M.L.A.

June 17, 1895.



APPENDIX.

[A]

PETITION

Unto the Honourable the President and Members of the Legislative Council of the Colony of the Cape of Good Hope, in Parliament assembled.

The Petition of the undersigned, Members of the Consistory or Board of Churchwardens of the Dutch Reformed Church at Middelburg, Cape Colony,

HUMBLY SHEWETH,—

That there are in this Colony a number of Townships laid out by the Dutch Reformed Church, where the remaining extent of the farm or farms on which such Townships have been established is still registered in the name of the respective Consistories, but from which the said Consistories derive no income or profit, the same being used solely as pasture-lands for the use of the inhabitants :

That the value of the houses and tenements in such Townships depends to a considerable extent on, and is materially increased by the right of depasturing live stock on such lands, and that this increment is taken into account in the valuation of such property and the assessment of rates by Divisional Councils :

That notwithstanding this, it appears from the best legal opinion that the respective Consistories are liable to be charged with Divisional Council rates on a valuation of such remaining extent as if the same were lands from which Church income were derived, and that in point of fact many such pasture-lands have been thus valued and rates assessed thereon :

That it is clear to every unprejudiced mind that it is the duty of the Legislature to remove without delay the injustice which the present state of the Law permits, and

by which your Petitioners feel aggrieved, wherefore your Petitioners request your Honourable Council to be pleased to cause a Bill to be introduced into the first session of Parliament to amend the 243rd Section of the Act No. 40 of 1889, so that the pasture-lands of such Townships vested in any Consistory of the Dutch Reformed Church may, in the same terms as pasture-lands vested in a Municipal Council, be exempted from valuation and assessment for Divisional Council purposes.

And your Petitioners will ever pray,

Gerrit van Niekerk, V.D.M., Chairman.

J. H. Venter,

M. D. Delport,

Wm. Naude,

G. J. Du Toit,

C. J. Vorster,

P. v. d. Merwe,

P. H. Joubert,

J. V. Brümmer,

John Enslin.

Middelburg, 15th April, 1895.

[B]

To the Honourable the Chairman, and the Honourable the Members of the Committee appointed by the Honourable the Legislative Council of the Cape of Good Hope to consider the Petition of the Consistory of the Dutch Reformed Church of Middelburg.

The petition of Gerrit van Niekerk, the Minister and Chairman of the Consistory of the Dutch Reformed Church of Middelburg, in this Colony,

HUMBLY SHEWETH,—¹

That Section 243 of Act 40 of 1889 exempts from liability to be rated for Divisional Council purposes (par. 2) immovable property vested in or belonging to any Municipal Board or Town Council except Municipal Com-

mon Lands leased by Municipalities for periods longer than a year.

The Consistory of the Dutch Reformed Church at Middelburg prays that this Section be so amended as to also exempt from liability to be rated for Divisional Council purposes "Municipal Common Lands being the property of religious bodies and the management of which has been handed over by the said bodies to Municipalities free of rent for use as Common Lands (with or without reservatory rights)."

And thereupon your petitioner says :

- I. That the farm "Driefontein," upon which the village of Middelburg stands, belongs to the said Church, and that in 1853 the greater portion of the erven were sold which now constitute the village.
- II. That thereafter a Municipality was formed under Ordinance of 1836 (under which Ordinance the said Municipality is governed up to the present day) and that the Church granted the whole of the remainder of Driefontein to said Municipality for Common Lands to be used by the inhabitants of the village under Municipal regulations and contain reservations as to water rights, the selling of additional erven and sundry other reservatory rights not now necessary to be mentioned for the present purposes, without, however, giving transfer.
- III. That a similar condition of affairs prevails in many villages where the land belongs to the Dutch Reformed and other Churches.
- IV. That the Divisional Council of Middelburg and other Councils in the Colony similarly situated levy rates⁽¹⁾ on the different buildings and erven situate within the village⁽²⁾ on the Common Lands belonging to the Church, though used as grazing lands for the benefit of the inhabitants and controlled by the Municipality under their agreement with the Church.



UNIVERSITY OF CALIFORNIA LIBRARY

Los Angeles

This book is DUE on the last date stamped below.

Form L9-Series 4939



AA 000 562 380

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54
1981 JAN 26 1985



PLEASE DO NOT REMOVE
THIS BOOK CARD



University Research Library

HJ3647		Ab 1885		CARE OF GOVT. HOPE PHA	
CALL NUMBER		SP	VOL	PT	COP
		AUTHOR			

